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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,926	04/14/2004	Herbert Huttlin	03928-P0007A	5298
24126 7590 06/03/2008 ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619				
EXAMINER EDWARDS, LAURA ESTELLE				
ART UNIT 1792		PAPER NUMBER		
MAIL DATE 06/03/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,926

Applicant(s)

HUTTLIN, HERBERT

Examiner

Laura Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7, 8 and 10-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30 and 32-34 is/are allowed.
- 6) ☒ Claim(s) 7, 10-12, 16-25, 29, 31 and 35 is/are rejected.
- 7) ☒ Claim(s) 8, 13-15, and 26-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 35 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There specification as originally filed fails to teach or suggest “said first air gap forming either an interrupted or uninterrupted annular gap that encompasses the vertical axis of rotation” as recited in claim 35, lines 8-9. Therefore, Applicant’s new recitation of “said first air gap forming either an interrupted or uninterrupted annular gap that encompasses the vertical axis of rotation” constitutes new matter.

Claims 31 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 31, it is unclear how this claim further structurally limits the apparatus of claim 30. The claim discusses two options, one being how the second air gap is configured and then the other being how the air feed device is configured. The latter is already recited in claim 30 so it is unclear why it is further recited a second time? As for the former, while the second air gap is mentioned, how does this say any more than what is set forth in claim 30 unless in line 2, “an

air stream" is deemed a secondary air stream separate from that mentioned in claim 30?

Clarification is necessary.

In claim 35, lines 8-9, it is unclear as to what structure is required and/or not required to effect either an interrupted or uninterrupted annular air gap?

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7, 10-12, 16-20, 23-25, 29, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huettlin (WO00/10699) in view of Pace (US 5,180,358) in view of reasons set forth in the previous office action.

With respect to claim 35, the combined teachings of Huettlin and Pace would still render the claimed invention obvious as the Examiner has taken the position that the provision of an air gap connected to an air feed device in the upper portion of the container wall would be within the purview of one skilled in the art so as to enable more efficient mixing and/or agitation of the particulate material from the lower portion of the container on up to the top.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huettlin (WO00/10699) in view of Pace (US 5,180,358) as applied to claim 7 above and further in view of Huettlin (DE 10104184) for reasons set forth in the previous office action.

Allowable Subject Matter

Claims 8, 13-15, and 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 30 and 32-34 would be allowable.

Claim 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 3/12/08 have been fully considered but they are not persuasive.

Applicant contends that neither Huettlin nor Pace provide configuration of the air feed device inlet such that the air stream supplied flows upward in direction and in some other region adjoining the air gap then in a tangential direction. This argument is well taken in that the combined teachings of Huettlin and Pace do not explicitly teach or suggest such a configuration. However, due to the widening construction of the Huettlin rotatable wall and that the upper portion of the wall can be construed anywhere from above the midsection of the wall (area about 28) up to area (86) and beyond, the inlet would have to be placed on an underside of the wall in order to fit all within housing (14) in consideration of the air/gas source being below on a floor or ground. The adjoining flow of the air stream tangentially would likely be effected from the

centrifugal and tangential flow of the particulate moving within the apparatus due to rotation of the wall.

Applicant contends that new claim 35 is non-obvious because the combination of Huettlin and Pace would not suggest an air gap that is interrupted or uninterrupted that encompasses the vertical axis of rotation. As mentioned above, this unsupported and unclear limitation would still be deemed obvious as the provision of an air gap connected to an air feed device in the upper portion of the container wall would logically enable more efficient mixing and/or agitation of the particulate material from the lower portion of the container on up to the top. Therefore, the new limitation would not be seen as sufficient to overcome the obviousness rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura Edwards/
Primary Examiner
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May 30, 2008